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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

ERNEST STEVEN RODRIGUEZ,

Plaintiff,

vs.

WAL-MART STORES, INC.

Defendant.

Case No. CV 10-05659 JF

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING SECOND
CLAIM FOR RELIEF ALLEGED IN
THE COMPLAINT**

Complaint Filed: December 13, 2010
Judge: Hon. Jeremy Fogel

1 Defendant Wal-Mart Stores, Inc. ("Wal-Mart") and plaintiff Ernest Steven Rodriguez , by and
2 through their respective counsel, stipulate and agree as follows:

3 WHEREAS, plaintiff filed its complaint against Wal-Mart on December 13, 2010;

4 WHEREAS, among the claims alleged by plaintiff in his complaint is the Second Claim for
5 Relief (entitled "Action for Restitution Under Unfair Business Practices Act"), in which plaintiff
6 purports to allege claims under California Business & Professions Code section 17200
7 representatively on behalf of other Wal-Mart employees who, like plaintiff, hold or held the position
8 of Asset Protection Coordinator;

9 WHEREAS, Wal-Mart contends that the Second Claim for Relief is improper under California
10 law, and informed plaintiff that it intended to file a motion to dismiss the claim; and

11 WHEREAS, following a meet-and-confer process between plaintiff and Wal-Mart, and to
12 avoid unnecessary motion practice, plaintiff has agreed that he will not pursue his Second Claim for
13 Relief in this action,

14 IT IS THEREFORE HEREBY STIPULATED, by and between plaintiff and Wal-Mart,
15 through their respective undersigned counsel, that plaintiff will not pursue in this action his Second
16 Claim for Relief and that the Second Claim for Relief shall henceforth be considered as dismissed and
17 not a claim upon which relief may be granted in this case..

18 In accordance with General Order 45 of the United States District Court for the Northern
19 District of California, I attest that concurrence in the filing of this document has been obtained from
20 the undersigned counsel.

21
22 DATED: June 8, 2011

GREENBERG TRAURIG, LLP

23 By s/ Scott G. Lawson

24 Scott G. Lawson

GREENBERG TRAURIG, LLP

25 lawsons@gtlaw.com

26 Attorneys for Defendant Wal-Mart Stores, Inc.


1 DATED: June 8, 2011

By s/ M. Van Smith
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Attorney for Plaintiff Ernest Steven Rodriguez

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7 **PURSUANT TO STIPULATION, IT IS HEREBY SO ORDERED.**

8 DATED: June ⁹, 2011


The Honorable Jeremy Fogel
UNITED STATES DISTRICT JUDGE